

MEMORANDUM

Date: November 18, 2014
To: Tiverton Planning Board
From: Ken Buckland AICP LEED AP PP
RE: Comprehensive Plan Amendment Process
Copies: Kate Michaud, Administrator

The Planning Board has been asked to consider a Comprehensive Plan Amendment for the Tiverton Crossing project. This memorandum outlines the required and recommended process and criteria for Comp Plan Amendments. The last page of this memo has a list of recommendations for suggested findings and actions.

COMPREHENSIVE PLAN PROCESS

A planning board or commission has the sole responsibility for performing all those acts necessary to prepare a comprehensive plan for a municipality. Municipalities which choose to conduct joint planning and regulatory programs pursuant to state law must designate and establish a local planning committee which has responsibility for the comprehensive planning program. The conduct of the planning board, commission, or the local planning committee shall include:

- Preparation of the comprehensive plan and implementation program,
- Citizen participation through the dissemination of information to the public and solicitation of both written and oral comments during the preparation of the plan,
- Conducting a minimum of one public hearing, and
- Submission of recommendations to the municipal legislative body regarding the adoption of the plan or amendment.

AMENDMENT PROCESS

The adoption or amendment of a comprehensive plan shall be conducted according to the following provisions in addition to any other provision that may be required by law. The town may enter into a formal written agreement with the State to conduct a review

of a draft plan or amendment in order to provide comments prior to the public hearing by the planning board, commission, or committee.

Action Items

The following excerpts from the law specify the procedural requirements for amendment.

1. Hold a minimum of one public hearing, which has been publicly announced and circulated from at least three weeks prior to the meeting

Prior to the adoption or amendment of a comprehensive plan, the city or town council shall first conduct a minimum of one public hearing.

(i) Prior to the adoption of, or amendment to, a comprehensive plan, notice shall be given of the public hearing by publication of notice in a newspaper of general circulation within the city or town at least once each week for three (3) successive weeks prior to the date of the hearing, which may include the week in which the hearing is to be held, at which hearing opportunity shall be given to all persons interested to be heard. Written notice, which may be a copy of the newspaper notice, shall be mailed to the statewide planning program of the department of administration. The newspaper notice shall be published as a display advertisement, using a type size at least as large as the normal type size used by the newspaper in its news articles, and shall:

- a. Specify the place of the hearing and the date and time of its commencement;*
- b. Indicate that adoption of, or amendment to, the comprehensive plan is under consideration;*
- c. Contain a statement of the proposed amendments to the comprehensive plan that may be printed once in its entirety, or summarize and describe the matter under consideration; the plan need not be published in its entirety;*
- d. Advise those interested where and when a copy of the matter under consideration may be obtained or examined and copied*
- e. State that the plan or amendment may be altered or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing. Any alteration or amendment must be presented for comment in the course of the hearing.*

2. **Clearly state that the amendment shall not become effective until it is approved by the State**

All ordinances dealing with the adoption of or amendment to a municipal comprehensive plan shall contain language stating that the comprehensive plan ordinance or amendment shall not become effective for the purposes of guiding state agency actions until it is approved by the State of Rhode Island pursuant to the methods stated in this chapter, or pursuant to any rules and regulations adopted pursuant to this chapter. The comprehensive plan of a municipality shall not take effect for purposes of guiding state agency actions until approved by the chief or the Rhode Island superior court.

3. **Confirm that the comprehensive plan has not been amended more than four times in the current calendar year.**

A municipality may not amend its comprehensive plan more than four (4) times in any one calendar year. Amendments that are required to address the findings of the chief, changes to the state guide plan, or changes to this act shall not be included under this provision.

STATE REVIEW PROCESS

The State will review any comprehensive plan or amendments adopted under the provisions of this chapter for consistency with the goals and intent established in the State law and in the State Guide Plan, and in accordance with the following schedule and requirements:

State Review Criteria

1. The intent and goals of the law have been met.
2. All required content as stated in § 45-22.2-6 is complete.
3. The plan or amendment is consistent with, and embodies the goals and policies of, the state and its departments and agencies as contained in the state guide plan and the laws of the state.
4. Municipal planning activities have been coordinated according to the provisions of § 45-22.2-7.
5. The plan or amendment has been officially adopted and submitted for review in accordance with § 45-22.2-8 of this chapter and other applicable procedures.
6. The plan or amendment complies with rules and regulations adopted by the state planning council as provided for by subsection 45-22.2-10(c).

7. Adequate, uniform, and valid data have been used in preparing each plan or amendment.

Action Items

1. **Submit the amendments to the State within thirty days of adoption by the town**

Comprehensive plans or amendments shall be submitted to the chief within thirty (30) days of adoption by the municipal legislative body, pursuant to subdivision 45-22.2-8(b)(2).

2. **State proceeds to solicit comments from the public, regional and state agencies, and all contiguous municipalities within fifteen days**

Within fifteen (15) days of the receipt of a comprehensive plan the chief shall solicit comments from the public, regional and state agencies, and all municipalities contiguous to the municipality submitting the plan or amendment. The comment period shall extend for thirty (30) days and shall be posted on the division of planning website.

3. **Town to receive the State's review of the amendments**

Review of the plan or amendment, and comments by the chief shall be completed and forwarded to the municipality as follows:

- i. *Within one hundred twenty (120) days of the end of the comment period for new plans or amendments that have not been submitted under the provisions of subdivision 45-22.2-8(a)(4); or*
- ii. *Within thirty (30) days of the end of the comment period for new plans or amended plans previously submitted for review under subdivision 45-22.2-8(a)(4).*
- iii. *The chief is authorized to discuss and negotiate, with the municipality, concerning any aspect of a plan or amendment being reviewed under subdivision (3)(i) or (3)(ii) of this subsection.*
- iv. *The chief and the municipality submitting a plan amendment may mutually agree, in writing, to reduce or extend the review period established by this section.*

4. **Town to address any reported deficiencies within sixty days**

Municipalities shall correct any deficiencies reported by the chief within sixty (60) days of the receipt of the chief's review and comments provided that the chief and the

municipality submitting a plan or amendment may mutually agree, in writing, to reduce or extend this period. The chief shall review all corrections and related material submitted by the municipality and render a final decision on the plan. In the event of disapproval, the chief shall notify the municipality by registered mail and shall issue findings specifically describing the deficiencies in the plan or amendment as it relates to the goals and other provisions of this chapter.

5. Town may appeal decision within thirty days

The municipality may appeal the decision of the chief to a hearing officer as provided for under § 45-22.2-9.1. The appeal must be filed within thirty (30) days of receipt of the decision by the chief.

RECOMMENDATIONS

The recommended procedures, findings and decisions of the Planning Board include:

1. Confirm the correct public announcements of the process
2. Complete the procedural requirements of the public hearing
3. Determine the Scope of the amendment:
 - What changes in the Comp Plan are requested, and needed, to implement the Tiverton Crossing project?
 - Which Goals and Policies and sections of the other elements need to be amended? At a minimum, as requested for by the proponent;:
 - Town Center Vision - sec 3.3
 - Future Land Use Plan/Map - sec 5.4
 - Affordable Housing - sec 6.7
4. Validate the data to be used to amend, or not amend, the Comp Plan
 - What information is needed to support the decisions on the Comp Plan amendment?
5. Consider the zoning that will be required to implement any amendment to the Comp Plan.
 - Does the amendment directly support the expected zoning changes?